

Panaji, 2nd May, 2003 (Vaishaka 12, 1925)

SERIES II No. 5

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

No. 10-4-99-LA (Vol. III)

The following Orders dated 28-7-2000; 27-7-2000; 31-7-2000; 12-9-2000; 13-9-2000; 16-11-2000; 30-11-2000; 20-12-2000 and 29-12-2000 received from the Government of India, Department of Mines, under rule 6 of the Mining Leases (Modification of Terms) Rules, 1956 are hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 27th March, 2001.

GOVERNMENT OF INDIA

Ministry of Mines & Minerals

Department of Mines

The Controller of Mining Leases for India

Order

Case No. CML-Z-239/2000

[Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956]

Whereas three cases were registered for the modification of terms of 3 mining leases dated as per list enclosed for Iron Ore held by M/s. Litho Ferro, Mapusa, Goa-403507 for permanent period, area 231.4000 hectares in Village(s) as per list enclosed, district Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:-

- (i) Area: The area of three (3) leases as per list enclosed are limited to 231.4000 hectares only.
- (ii) Period: No change is made as the period of the lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.
- (iii) The following clause shall be deemed to be inserted in the lease deed and shall form part thereof:-

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 28th July, 2000.

ANNEXURE

Details of Three (3) Mining Leases

Name of the Lessee &
Address:

M/s. Litho Ferro,
Khalap Chambers, Market Road,
Mapusa, Goa-403507.

S. No.	Case No.	Denomination of the Mine	Village/Taluka & District	Minerals	Number, date and title	Area
1	2	3	4	5	6	7
1.	Z-239	Calsanichomato de Oilemol & Goli Coilo etc.	Vill. Advalpal T. Bicholim, Goa.	Iron Ore	89 of 7-11-1952	47.0300
2.	Z-508	Deogoti Molavoril Dongor	Vill. Sangod T. Sanguem Dist. South Goa.	do	19 of 18-4-1956	84.3700
3.	Z-736	Calmachem tembo-c-ter adjts.	Vill. Pissurlem T. Satari Goa.	do	57 of 27-9-1959	100.0000
						Total : 231.4000

NOTE EMBODYING THE FACTS OF CASE, PLEAS
OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML-Z-239/2000

Name of the lessee : M/s. Litho Ferro,
Khalap Chambers, Market Road,
Mapusa, Goa-403507.

Date of the lease :
Mineral(s) :
Area and Location :
Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee—M/s. Litho Ferro, Mapusa, Goa, and the lessor — the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated as per enclosed list held by the lessee.

3. The case was also taken up for hearing on 21-2-2000 & 11-4-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 21-2-2000 & 11-4-2000 at Goa, the lessee was represented by his Advocate/ /representative. The lessee has also submitted objections letter stating:

- that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- affidavit(s) dated 8-2-2000, 22-2-2000, 19-6-2000 duly signed by the lessee/attorney to abide by the provisions of Mines & Minerals (R&D) Act, 1957, MCR, 1960, MCDR, 1988 and ML(MT) Rules,

1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.

- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation &

Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w. e. f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w. e. f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.
Nagpur 28th July, 2000.

Order

Case No. CML/Z-737/2000

The following lease(s) in respect of M/s. Litho Ferro, Khalap Chambers, Market Road, Mapusa-403507, Goa, has been registered in this Office for modification as per provisions of Mines & Minerals (Regulation & Development) Act, 1957, and the rules made thereunder:

1. Case No. : Z-737
2. TC No. & Dt. of lease : 58 of 27-9-1959
3. Denomination of Mines : Matiecho Dongor
4. Location: Village : Molem
Taluka : Sanguem
Distt.. : Goa
5. Mineral : Iron & Manganese
6. Area : 100.0000 hectares.

2. This office has issued Show Cause Notice to M/s. Litho Ferro, Khalap Chambers, Market Road, Mapusa-403507, Goa under Rule 6 of Mining Leases (Modification of Terms) Rules 1956, for modification of the above mining lease vide letter No. CML/Z-737/

**NOTE EMBODYING THE FACTS OF CASE, PLEAS
OF THE PARTIES & REASONS FOR THE ORDER**

Case No. CML-Z-47/2000

Name of the lessee : Shri Ramakant Rajaram
Poinguincar,
Co-op. Housing Poinguincar,
C/o. Shri Damodar Co-op. Housing
Society, Aguem, Margao, Goa-
403601.

Date of the lease : }
Mineral(s) : } As per enclosed list
Area and Location : }
Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee—Shri Ramakant Rajaram Poinguincar, Margao, Goa and the lessor—the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated as per enclosed list held by the lessee.

3. The case was also taken up for hearing on 14-1-2000 & 26-6-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 14-1-2000 & 26-6-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objections letter stating:

- i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of

Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- ii) affidavit(s) dated 6-12-99 & 17-5-2000 duly signed by the lessee/attorney to abide by the provisions of Mines & Minerals (Regulation & Development) Act, 1957, Mineral Concession Rules, 1960, Mineral Conservation & Development Rules, 1988 and Mining Leases (Modification of Terms) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.
- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of

Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w. e. f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w. e. f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition & Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 27th July, 2000.

Order

Case No. CML-Z-114/2000

[Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956]

Whereas a case was registered for the modification of terms of a mining lease dated 20-4-1951 (T. No. 34/51) for Iron & Manganese held by Smt. Khatijam Bi, w/o late Shaik Adam Shaik Abubakar, Gogal, Fatorda, Goa for permanent period, area 37.7425 hectares in Village(s) Colomba, taluka Sanguem, district South Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:-

- (i) Area: The area of the lease is limited to 37.7425 hectares only.

- (ii) Period: No change is made as the period of the lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

- (iii) The following clause shall be deemed to be inserted in the lease deed and shall form part thereof:-

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 27th July, 2000.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML-Z-114/2000

Name of the lessee : Smt. Khatijam Bi,
w/o late Shaik Adam Shaik
Abubakar, Gogal, Fatorda, Goa

Date of the lease : 20-4-1951 (T. No. 34/51)

Mineral(s) : Iron & Manganese

Area and Location : 37.7425 hect.
Village : Colomba
Taluka : Sanguem
Distt. : South Goa

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee — Smt. Khatijam Bi, w/o late Shaik Adam/Shaik Abubaker, Gogal, Fatorda, Goa and the lessor—the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated 20-4-1951 held by the lessee.

3. The case was also taken up for hearing on 21-2-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 21-2-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objections letter stating:

- i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessée has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- ii) affidavit(s) dated 16th February, 2000 duly signed by the lessee/attorney to abide by the provisions of Mines & Minerals (Regulation & Development) Act, 1957, Mineral Concession Rules, 1960, Mineral Conservation & Development Rules, 1988 and Mining Leases (Modification of Terms) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP, wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.
- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining

Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w. e. f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w. e. f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulations & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 27th July, 2000.

Order

Case No. CML/Z-228/2000

[Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956]

Whereas a case was registered for the modification of terms of a mining lease dated 19-9-1952 (78/52) for Iron/Manganese held by Smt. Sharambi, BI- Felecinta Complex, Post Box No. 785, Gogol, Fatorda, Goa for permanent period, area 26.0750 hectares in Village Colomba, Taluka Sanguem, district South Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:-

- (i) **Area:** The area of the lease is limited to 26.0750 hectares only.
- (ii) **Period:** No change is made as the period of lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.
- (iii) The following clause shall be deemed to be inserted in the lease deed and shall form part thereof:-

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 28th July, 2000.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML/Z-228

Name of the lessee : Smt. Sharambi, B-1, Felecinta Complex, Post Box No. 785, Gogol, Fatorda, Goa-403 602.

Date of the lease : 19-9-1952 (78/52)

Mineral(s) : Fe/Mn

Area and Location : 26.0750 hectares.
Village: Colomba
Taluka : Sanguem
South Goa, Goa.

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee - Smt. Sharambi, B-1, Felecinta Complex, P. B. No. 785, Gogol, Goa and the lessor - the Government of Goa, calling upon them to show cause why such

modifications/alterations should not be made in the mining lease deed dated held by the lessee.

3. The case was also taken up for hearing on 14-01-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 14-01-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objections letter stating:

- i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- ii) affidavit(s) dated 16-2-2000 duly signed by the lessee/attorney to abide by the provisions of Mines & Minerals (Regulation & Development) Act, 1957, Mineral Concession Rules, 1960, Mineral Conservation & Development Rules, 1988 and Mining Leases (Modification of Terms) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned

Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further orders from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.

- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w. e. f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w. e. f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 28th July, 2000.

Order

Case No. CML/Z-804/2000

[Under Rule 6 of the Mining Leases (Modification of terms) Rules, 1956]

Whereas a case was registered for the modification of terms of a mining lease dated 10-8-1963(6/63) for mineral Fe/Mn held by M/s. Companhia Mineral Progresso Ltd., Goa for pmt. period area 80.6000 hectares in Village(s) Curpem & Vichundrem, Tah. Sanguem, district South Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:—

- (i) **Area:** The area of the lease is limited to 80.6000 hectares only.
- (ii) **Period:** No change is made as the period of the lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.
- (iii) The following clause shall be deemed to be inserted in the lease deed and shall form part thereof:—

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 28th July, 2000.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML/Z-804

Name of the lessee : M/s. Companhia Mineral Progresso Ltd., C/o Mr. Atchuta V. S. Velingkar, Post Mardol, Velinga, Goa.

Date of the lease : 10-8-1963 (6/63)

Mineral(s) : Iron & Manganese

Area and Location : 80.6000 hectares.
Village-Curpem & Vichundrem,
Tah. Sanguem, Distt. South Goa.

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

- iii) **Area:** To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.
- iv) **Period:** To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee— M/s. Companhia Mineira Progresso Ltda., Goa and the lessor — the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated 10-8-1963 held by the lessee.

3. The case was also taken up for hearing on 26-6-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 26-6-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objections letter stating:

- i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is

not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- ii) affidavit(s) dated 1-6-2000 duly signed by the lessee/attorney to abide by the provisions of MM(R&D) Act, 1957, MCR, 1960, MCDR, 1988 and ML(MT) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.

- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development)

Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w.e.f. 1st Oct, 1963 and the Section 16 of the said Act was made applicable to Goa w.e.f. 15th January 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases of India.

Nagpur, 28th July, 2000.

Order

Case No. CML/Z -78/2000

(Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956

Whereas a case was registered for the modification of terms of a mining lease dated 11-12-1950 (39/50) for mineral Fe/Mn held by Smt. Geetabala Manohar Naik Parulekar, Bardez, Goa for pmt. period area 99.9880 hectares in Village(s) Dargalim Teh. Pernem District, North Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:—

- (i) Area: The area of the lease is limited to 99.9880 hectares only.
- (ii) Period: No change is made as the period of the lease(s) is already modified as per provisions of

the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

- (iii) The following clause shall be deemed to be inserted in the lease deed and shall form part thereof:—

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be Specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases of India.

Nagpur, 28th July, 2002.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML/Z-78

Name of the lessee : M/s. Geetabala Manohar Naik Parulekar, Pissurlem-Guelliem Gaval Mine owner, Altinho Mapusa, Bardez-Goa.

Date of the lease : 11-12-1950 (39/50)

Mineral(s) : Fe/Me

Area and Location : 99.9880 hectares
Village Dargalim, Tah. Pernem,
Distt. South Goa, Goa.

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

- iii) Area: To be reduced to ten square kilometres as required under Section 6 of

Mines and Minerals (Regulation & Development) Act, 1957.

- iv) Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee—Smt. Geetabala Manohar Naik Parulekar, Goa and the lessor—the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated 11-12-1950 held by the lessee.

3. The case was also taken up for hearing on 11-4-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 11-4-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objections letter stating:

- i) that the proposal to reduce the area of lease under Section 6 (i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexure I & II under Rules/Act.
- ii) affidavit(s) dated 27-6-2000 duly signed by the lessee/attorney to abide by the provisions of MM(R&D) Act, 1957, MCR, 1960, MCDR, 1988 and ML(MT) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further orders from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.

ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w.e.f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w.e.f. 15th January, 1966 which confers powers to CML for

modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 28th July, 2000.

Order

Case No. CML/Z -632/2000

[Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956]

Whereas a case was registered for the modification of terms of a mining lease dated 28-7-1958 (28/58) for Iron held by Shri Adoifo Patrocínio Estevam Gomes, Goa for pmt. period area 86.9900 hectares in Village(s) Bhati Teh. Sanguem, district South Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:—

(i) **Area:** The area of the lease is limited to 86.9900 hectares only.

(ii) **Period:** No change is made as the period of the lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

(iii) The following clause shall be deemed to be inserted in the lease deed and shall form part thereof:—

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 31st July, 2000.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML/Z-632/2000

Name of the lessee : Shri Adoifo Patrocinio Estevam Gomes, Pajifond, Margao Goa

Date of the lease : 28-7-1958 (28/58)

Mineral(s) : Iron

Area and Location : 86.9900 hectares
Village Bhati
Tah. Sanguem
District: South Goa.

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee - Shri Adoifo Patrocinio Estevam Gomes, Margao Goa and the lessor - the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated 28-7-1958 held by the lessee.

3. The case was also taken up for hearing on 11-4-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 11-4-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objections letter stating.

i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.

ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.

ii) affidavit(s) dated 21-7-2000 duly signed by the lessee/attorney to abide by the provisions of MM(R&D) Act, 1957, MCR, 1960, MCDR, 1988 and ML(MT) Rules, 1956 and other provisions applicable and as amended from time to time, by the Central Government in respect of his afore-said lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the

Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.

- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January, 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w.e.f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w.e.f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 28th July, 2000.

Order

Case No. CML/Z-19/2000

[Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956]

Whereas a case was registered for the modification of terms of a mining mineral lease dated 22-10-1941 (T. No. 17/41) for Mineral Fe/Mn held by M/s. Elesbao Pereira & Sons, Vasco da Gama 403 802 for pmt. period area 20.0000 hectares in Village(s) Aglote of Santordem T. Sanguem, district South Goa of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2: It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:—

- (i) Area: The area of the lease is limited to 20.0000 hectares only.
- (ii) Period: No change is made as the period of the lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.
- (iii) The following shall be deemed to be inserted in the lease deed and shall form part thereof:—

"Except for the modifications made by this order, the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the State Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 27th July, 2000.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML/Z-19/2000

Name of the lessee : Elesabao Pereira & Sons, P. B.
No. 106, Vasco da Gama-403 802.

Date of the lease : 22-10-1941 (T. No. 17/41).

Mineral(s) : Fe/Mn

Area and Location : 20.000 hectares
Village: Aglote of Santordem
Taluka: Sanguem
Distt. Goa.

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years, counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee - and the lessor - the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated held by the lessee.

3. The case was also taken up for hearing on 14-01-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 14-01-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has submitted objection letter stating:

- i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- ii) affidavit(s) dated 26-6-2000 duly signed by the lessee/attorney to abide by the provisions of

MM(R&D) Act, 1957, MCR, 1960, MCDR, 1988 and ML(MT) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government. (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.
- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government notification w.e.f. 15th January,

1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w.e.f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w.e.f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 27th July, 2000.

Order

Case No. CML/Z-165/2000

[Under Rule 6 of the Mining Leases (Modification of Terms) Rules, 1956]

Whereas a case was registered for the modification of terms of a mining lease dated 22-2-1952 (T. No. 15/52) for Iron & Manganese held by Smt. Kamalabai S. Tirodkar w/o late Sadashiv Dattatraya Tirodkar for pmt. period, area 62.0484 hectares in Village(s) Latambarse, Taluka Bicholim, North Goa District of Goa State.

And whereas an enquiry has been made, as laid down in the Mining Leases (Modification of Terms) Rules, 1956.

2. It is hereby ordered under rule 6 of the aforesaid Rules that terms and conditions of the above lease shall stand modified as follows:—

- (i) **Area:** The area of lease is limited to 62.0484 hectares only.
- (ii) **Period:** No change is made as the period of the lease(s) is already modified as per provisions of the Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.
- (iii) The following shall be deemed to be inserted in the lease deed and shall form part thereof:—
"Except for the modifications made by this order,

the lease shall be subject to the rules made or deemed to have been made under Sections 13 and 18 of the Mines & Minerals (Regulation & Development) Act, 1957 (No. 67 of 1957)."

3. It is clarified that royalty and dead rent shall be payable in accordance with Section 9 and 9A of the Mines & Minerals (Regulation & Development) Act, 1957 respectively instead of according to the stipulations in the lease deed.

4. It is further clarified that the lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent at such rate, as may be specified by the state Government under the Mineral Concession Rules, 1960.

5. This order shall take effect from the date of this order.

6. It is ordered that this order be published in the Official Gazette of Goa State and copies thereof be sent to the lessee and the State Government.

C. P. Ambesh, Controller of Mining Leases for India.

Nagpur, 27th July, 2000.

NOTE EMBODYING THE FACTS OF CASE, PLEAS OF THE PARTIES & REASONS FOR THE ORDER

Case No. CML/Z-165/2000

Name of the lessee : Smt. Kamalabai S. Tirodkar, w/o
Late Sadashiv D. Tirodkar,
15 Galaxy Apartment, Aquem,
Margao, Goa.

Date of the lease : 22-2-1952 (15/52).

Mineral(s) : Fe/Mn

Area and Location : 62.0484 hectares.
Latembarse, Taluka Bicholim
Goa.

Period : Unlimited

Apart from the insertion of the general clause, the following was the proposal contained in the show cause notice(s) issued to the lessee for modification of the mining lease(s) referred to above:

Area: To be reduced to ten square kilometres as required under Section 6 of Mines and Minerals (Regulation & Development) Act, 1957.

Period: To be reduced to two years counting from the date of the modification order, passed under Rule 6 of Mining Leases (Modification of Terms) Rules, 1956.

2. In pursuance of rule 6 of the Mining Leases (Modification of Terms) Rules, 1956, the show cause notice containing the proposals for modification of the above mentioned mining lease was sent to the lessee - Smt. Kamalabai S. Tirodkar, w/o late Sadashiv D. Tirodkar, and the lessor - the Government of Goa, calling upon them to show cause why such modifications/alterations should not be made in the mining lease deed dated 22-2-1952 held by the lessee.

3. The case was also taken up for hearing on 15-5-2000 at Goa for enabling both the parties to put forward their case.

4. At the time of hearing on 15-05-2000 at Goa, the lessee was represented by his Advocate/representative. The lessee has also submitted objection letter stating:

- i) that the proposal to reduce the area of lease under Section 6(i) (b) of Mines and Minerals (Regulation & Development) Act, 1957 is not possible which is likely to negate any decision that may be arrived by the Hon'ble Supreme Court of India in the SLP filed by lessee wherein Ad interim order, passed on 2-3-98.
- ii) that the proposal to reduce the period to two years from the date of the modification order is not possible as provided under Section 16(1A) of Mines and Minerals (Regulation & Development) Act, 1957 since the period of the lease has already stand reduced to the extent of six months from the date of assent i. e. 23-5-87 under Section 5 of Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

Further, the lessee has also submitted the following documents at the time of hearing:

- i) information regarding lease(s) in the prescribed annexures I & II under Rules/Act.
- ii) affidavit(s) dated 21-6-2000 duly signed by the lessee/attorney to abide by the provisions of MM(R&D) Act, 1957, MCR, 1960, MCDR, 1988 and ML(MT) Rules, 1956 and other provisions applicable and as amended from time to time by the Central Government in respect of his aforesaid lease(s).

However, no representative of State Government (Lessor) was present on the date of hearing.

5. I have given my careful consideration to the above objections/plea advanced by the lessee and, in my view, they have got no force on the basis of my finding given hereunder:

- i) that the contention of the lessee(s) is not maintainable that the modification of area is likely to negate the decision that may be arrived by the Hon'ble Supreme Court of India in the SLP wherein Ad interim order was passed on 2-3-98. The Hon'ble Supreme Court of India in Ad interim order dated 2-3-98 has permitted the appellants to carry on mining operations and mining business in the mining area for which renewal

applications have been made on the condition that the appellants shall pay to the respondents from the date of commencement of the impugned Act all the amount of dead rent, royalty as now stipulated by the respondents under the impugned Act without prejudice and under protest. The appellants will also comply with all other conditions. As regards the period from 1961 till the coming into force of the impugned Act, it will be opened to the respondents to take proceedings from assessment of the amount payable by the appellants but no recovery shall be made without further order from the court. Thus, there is no restraint put by the order of the Hon'ble Supreme Court of India for control of modification of terms of the existing mining lease(s) to bring in conformity with the terms of the Mines & Minerals (Regulation & Development) Act, 1957 and the rules made thereunder. Accordingly, the area may be modified without affecting the area under active mining operations.

- ii) that the contention of the lessee(s) is not maintainable that the provisions of Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 is inconsistent with the provisions of Section 5 of Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987, therefore, provisions of the Section 16 of Mines and Minerals (Regulation & Development) Act, 1957 do not apply to the deemed lease(s) of Goa. The above Acts are consistent & Section 16 of Mines & Minerals (Regulation & Development) Act, 1957 made applicable to all lease(s) of Goa State vide Government. notification w.e.f. 15th Jan' 1966. However, the period of the lease(s) is not changed as the same is already modified as per the provisions of the Goa, Daman & Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987.

6. As stated above, vide Government of Goa notifications dated 30th September, 1963 and 4th January, 1966, the MM(R&D) Act, 1957 became applicable to Goa w.e.f. 1st October, 1963 and the Section 16 of the said Act was made applicable to Goa w.e.f. 15th January, 1966 which confers powers to CML for modification of mining lease(s) of Goa under Section 16 of the MM(R&D) Act, 1957. Keeping in view of the provisions of the Mines and Minerals (Regulation & Development) Act, 1957, Goa, Daman and Diu Mining Concessions (Abolition and Declaration as Mining Leases) Act, 1987 and the rules made thereunder, modification of the lease(s) is made.

Order passed accordingly.

C. P. Ambesh, Controller of Mining Leases for India.
Nagpur, 27th July, 2000.